IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.653 OF 2002

Shri.Jagdish Prasadji Agrawal & anr. ...Petitioners.

vs.

Municipal Corporation of city of Thane ...Respondent.

Mr.S.M.Oak, for Petitioners.

Mr.R.S.Apte, for Respondent.

CORAM: D.K.DESHMUKH &

V.M.KANADE, JJ.

DATED: 20th NOVEMBER,2007.

P.C.:-

1. By this petition, the petitioners challenge the order dated 1.2.2001 passed by the

Executive Engineer, City Development Department, Thane Municipal Corporation. The petitioners had applied for permission to repair their building. That permission has been denied and one of the reasons given for denying the permission to repair the building was that the petitioners has not submitted approved building plan of the building which is to be repaired. According to the petitioners, the building is in existence since prior to 1928; it is also shown in the Civil Survey sketch; even Thane Municipal Corporation was running its school in part of this building.

2. In our opinion, considering that the building is in existence for a very long time, the Corporation is not justified in insisting on production of the approved building plan. The learned Counsel appearing for both the sides are agreed that it is not necessary for us to go into other grounds which have been raised for deciding

this petition. In our opinion, the following order would meet the ends of justice:-

(i) The Respondent-Corporation to reconsider the application submitted by the petitioners for repairing the building and to decide it in accordance with law, and to communicate its decision to the petitioners within a period of Sixty days from today.

(ii) It is clarified that the Corporation shall not insist, while considering that application, on the petitioners to produce the approved building plan.

Rule is made absolute accordingly.

No order as to costs.

(D.K.DESHMUKH, J.)

(V.M.KANADE,J.)